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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,016	08/20/2001	David Scott Gray	PGRAC	7568

7590 10/29/2003
Thompson E. Fehr
Goldenwest Corporate Center
Suite 300
5025 Adams Avenue
Ogden, UT 84403

EXAMINER

PATEL, MITAL B

ART UNIT PAPER NUMBER

3743

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,016

Applicant(s)

GRAY, DAVID SCOTT

Examiner

Mital B. Pat I

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6 and 8-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment/Arguments

1. Applicant's arguments filed 8/9/03 have been fully considered but they are not persuasive.
2. Applicant's arguments with respect to claims 1, 2, 7-9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claim 4 is objected to because of the following informalities: In Claim 4, line 3, the recitation "said tube are" should read --said tube is--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Coles et al (US 5,513,628).

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6. **As to claim 3**, Coles teaches a medical port **105** for an emergency safety resuscitator having a collapsible bag with an outlet which comprises a tube having a first aperture **135** for communicating with a collapsible bag of a resuscitator, a second aperture **120**, a third aperture **140** available for connection to a mask or an endotracheal tube, and an inside; a self-sealing membrane **145** releasably covering the second aperture of the tube; and two or more strips of flexible plastic **155**, each strip having a first end attached to the inside of the tube, between the first aperture and the second aperture, and a second end pushing against a second end of at least one other of the strips (**See Fig. 1**).

7. **As to claim 10**, Coles teaches a medical port **105** for an emergency safety resuscitator having a collapsible bag with an outlet which comprises a tube having a first aperture **135** for communicating with a collapsible bag of a resuscitator, a second aperture **120**, a third aperture **140** available for connection to a mask or an endotracheal tube, and an inside; and two or more strips of flexible plastic **155**, each strip having a first end attached to the inside of the tube, between the first aperture and the second aperture, and a second end pushing against a second end of at least one other of the strips.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coles et al (US 5,513,628) in view of Wilson (US 4,106,502).

10. **As to claims 4 and 11**, Coles teaches essentially all of the limitations except for wherein the tube is constructed of clear plastic. However, Wilson does teach the use of a clear plastic for the construction of tube so that the tube is lightweight and allows for internal viewing or visibility. Therefore, it would have been obvious to one of ordinary skill in the art to modify the tube of Coles and construct the tube of a clear plastic so that the tube is lightweight and allows for internal viewing or visibility.

11. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coles et al (US 5,513,628) in view of Rosenblatt (US 4,950,247).

12. **As to claim 6**, Coles teaches essentially all of the limitations except for wherein the seal-sealing member is siliconized. However, Rosenblatt does teach the use of a silicon since it is a material that has memory so that any element formed from silicon would return to its original shape if that element is deformed without requiring the use of a spring or other elastic material to bring the element back to shape. Therefore, it would have been obvious to one of ordinary skill in the art to make the self-sealing member of Coles from silicon so that it can return to its original shape after being deformed.

13. **As to claim 9**, Coles teaches a medical port **105** for an emergency safety resuscitator having a collapsible bag with an outlet which comprises a tube having a first aperture **135** for communicating with a collapsible bag of a resuscitator, a second aperture **120**, a third aperture **140** available for connection to a mask or an endotracheal

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tube, and an inside; and a self-sealing membrane **145** releasably covering the second aperture of the tube. Coles fails to specifically teach the seal-sealing member to be siliconized. However, Rosenblatt does teach the use of a silicon since it is a material that has memory so that any element formed from silicon would return to its original shape if that element is deformed without requiring the use of a spring or other elastic material to bring the element back to shape. Therefore, it would have been obvious to one of ordinary skill in the art to make the self-sealing member of Coles from silicon so that it can return to its original shape after being deformed.

14. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coles (US 5,513,628) and Wilson (US 4,106,502) as applied to claim 4 above, and further in view of Rosenblatt (US 4,950,247).

15. **As to claim 5**, the combination of Coles and Wilson teaches essentially all of the limitations except for wherein the self-sealing membrane is siliconized. However, Rosenblatt does teach the use of a silicon since it is a material that has memory so that any element formed from silicon would return to its original shape if that element is deformed without requiring the use of a spring or other elastic material to bring the element back to shape. Therefore, it would have been obvious to one of ordinary skill in the art to make the self-sealing member of Coles from silicon so that it can return to its original shape after being deformed.

16. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coles (US 5,513,628) in view of Wilson (US 4,106,502) further in view of Rosenblatt (US 4,950,247).

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17. **As to claim 8**, Coles teaches a medical port **105** for an emergency safety resuscitator having a collapsible bag with an outlet which comprises a tube having a first aperture **135** for communicating with a collapsible bag of a resuscitator, a second aperture **120**, a third aperture **140** available for connection to a mask or an endotracheal tube, and an inside; and a self-sealing membrane **145** releasably covering the second aperture of the tube. Coles teaches essentially all of the limitations except for wherein the tube is constructed of clear plastic. However, Wilson does teach the use of a clear plastic for the construction of tube so that the tube is lightweight and allows for internal viewing or visibility. Therefore, it would have been obvious to one of ordinary skill in the art to modify the tube of Coles and construct the tube of a clear plastic so that the tube is lightweight and allows for internal viewing or visibility. The combination of Coles and Wilson teaches essentially all of the limitations except for wherein the self-sealing membrane is siliconized. However, Rosenblatt does teach the use of a silicon since it is a material that has memory so that any element formed from silicon would return to its original shape if that element is deformed without requiring the use of a spring or other elastic material to bring the element back to shape. Therefore, it would have been obvious to one of ordinary skill in the art to make the self-sealing member of Coles from silicon so that it can return to its original shape after being deformed.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 6070582, US 5738091, US 5628306, US 5343857, US 5333606, and US 4781702.

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

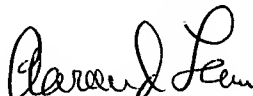
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mital B. Patel whose telephone number is 703-306-5444. The examiner can normally be reached on Monday-Friday (8:00 - 4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Aaron J. Lewis
Primary Examiner

mbp